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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,928	03/11/2004	Kurt Pfitzinger	5031-214	6919
20792	7590	05/03/2006		
MYERS BIGEL SIBLEY & SAJOVEC PO BOX 37428 RALEIGH, NC 27627			EXAMINER WILLIAMS, MARK A	
			ART UNIT 3676	PAPER NUMBER
DATE MAILED: 05/03/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/798,928	Applicant(s) PFITZINGER ET AL.	
	Examiner Mark A. Williams	Art Unit 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 12-16, 18-28, 30-33, 35-37 and 41-48 is/are pending in the application.
- 4a) Of the above claim(s) 41-45 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33, 35-37, 46 and 47 is/are allowed.
- 6) ☒ Claim(s) 1-9, 12, 13, 16, 20, 23-26, 30, and 48 is/are rejected.
- 7) ☒ Claim(s) 14, 15, 18, 19, 21, 22, 27, 28, 31 and 32 is/are objected to.
- 8) ☒ Claim(s) 41-45 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/13/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C.

121:

- I. Claims 1-9, 12-16, 18-28, 30-33, 35-37, and 46-48 drawn to a rotary unit, classified in class 292, subclass 216.
- II. Claims 41-44, drawn to a locking pin assembly, classified in class 292, subclass 340.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because any of a variety of type of locking pin assemblies or pin like assemblies may be

used to achieved the desired function of the device. The subcombination has separate utility such as being usable with a wide variety of different latch units.

3. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

4. This application contains claims directed to the following patentably distinct species: species I, shown in figures 4-5; and species II, as shown in figure 15. The species are independent or distinct because the retaining member as shown in figure 15 represents a substantial modification of the device of figures 4-5, placing it in another category of invention.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added.

An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

5. During a telephone conversation with James Cannon on 4/17/06 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-9, 12-16, 18-28, 30-33, 35-37, and 46-48. Affirmation of this election must be made by applicant in replying to this Office action. Claims 41-45 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be

accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3, 8, 12, 13, 20, 23-26, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Wagner et al., US Patent 2,788,997. As seen in figure 1, a container 1 comprising a receptacle having side walls, a floor (at the bottom of the aircraft), and an open end; a cover (any of elements 6, 7, and 8) pivotally attached to one of the walls of the receptacle, the cover being movable between an open position, in which the open end of the receptacle can be accessed, and a closed position, in which the cover overlies the open end of the receptacle; as seen in figures 2 and 3, a locking pin (50, 51) is mounted on one of the cover and a receptacle walls; and at least one locking system for maintaining the cover in the closed position, the locking system comprising a release member (not shown, but attached to 24) and although not explicitly shown, the release member inherently

being attached to the other of the cover and a receptacle wall; a connecting member 23 attached to the release member, and a rotary unit including a base plate 56 having a slot (although not explicitly shown, inherently there is a slot to received element (50, 51)), a rotary member 25 rotatably mounted with the base plate about a first axis of rotation, the rotary member including a plurality of fingers extending radially outwardly from a central portion thereof and an engagement portion being the recess portions between fingers fixed to the central portion, and a pawl member 35 pivotally mounted with the base plate about a second axis of rotation and coupled with the connecting member at least during a portion of operation of the device; wherein when the cover is in the closed position, the locking pin is received within the slot of the rotary unit base plate and engages one of the fingers of the rotary member, and the pawl member via (30, 31) engages the engagement portion to prevent rotation thereof, and wherein actuation of the release member disengages the pawl member from the engagement portion, thereby enabling the rotary member to rotate freely relative to the base plate, which rotation disengages the locking pin from the rotary member and enables the cover to move to the open position. A biasing member is provided to bias the pawl in the claimed manner, as conventional in the art (see column 3, lines 54-59). The container is considered to have two sidewalls, and each of the sidewalls of the

container includes a winged portion 5 that defines a lateral storage region. The locking pin 50 is pivotally mounted to the cover 8 and generally perpendicularly to the slotted opening of the rotary unit base plate, as claimed. The fingers are lobed.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 6, 7, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner et al.

Regarding claim 6, Wagner discloses the claimed invention except for an adjustable locking pin. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device in this way, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954). Such a modification is not critical to the design and would have produced no unexpected results. Such a modification would have the benefit of allowing for positive optimum alignment of the locking pin with the rotary unit.

Regarding claim 7, it would have being obvious to make the locking pin adjustable in such a way, in order to achieve optimum latching alignment along the direction of engagement with the rotary unit, as known in the art.

Regarding claim 48, Wagner provides the claimed invention except explicitly teaching of two pawl post apertures and two pawl post, as claimed. However, such structure is suggested by Wagner at 32. Although not shown in the cross-sectional view for post near 32, shaft 22 is shown with structure of the claimed subject matter at its ends. It would have been obvious to have made the design of Wagner is this way for the purpose of providing effective mounting structure of the pawl member.

9. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner et al. in view of Lauderbach, US Patent 4,706,333. Although the claimed biasing member is not explicitly disclosed, such structure is very old and well known in the art. Lauderbach provides an example of such a known design. It would have been obvious to modify the device in this way for purposes of achieving a desired biasing of the cover member.

10. Claim 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner et al. in view of Falcon, US Patent 5,821,488. Regarding claim 16,

Wagner provides actuating element 24 to be attached to a release member of some type. Falcon provides the old and well-known concept of a palm button 100 used in the application of operating a cable member for latching and/or unlatching purposes. It would have been obvious to make such a release member a palm button for the purpose of allowing a user to operate the device by the palm of a user's hand.

11. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner et al. in view of Harmon, US Patent 4,691,952. The concept of locking pins and other latch components being biased to a rest position is very old and well-known in the art, for alignment purposes. Harmon provides an example of such structure. It would have been obvious at the time the invention was made for one skilled in the art to have included such a modification in the design of Wagner for the purpose of achieving improved alignment during use of the device.

Allowable Subject Matter

12. Claims 33, 35-37, 46, and 47 allowed.

13. Claims 14, 15, 18, 19, 21, 22, 27, 28, 31, and 32 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in

independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

14. Applicant's arguments with respect to claims of record have been considered but are moot in view of the new ground(s) of rejection. Newly discovered art has been applied as outlined above.

Conclusion


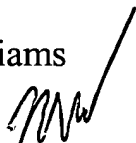
This action is non-final.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Williams whose telephone number is (571) 272-7064. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mark Williams
4/27/06



BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER